

103D CONGRESS
2D SESSION

H. R. 3434

To amend the Public Health Service Act to protect the public from health hazards caused by exposure to environmental tobacco smoke, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

NOVEMBER 3, 1993

Mr. WAXMAN (for himself, Mr. HANSEN, Mr. BARRETT of Wisconsin, Mr. BEILENSEN, Mr. BROWN of Ohio, Mr. BRYANT, Mrs. COLLINS of Illinois, Mr. DELLUMS, Mr. DURBIN, Mr. FARR of California, Mr. FOGLIETTA, Ms. FURSE, Mr. HUFFINGTON, Mr. JOHNSTON of Florida, Mr. KREIDLER, Mr. LAFALCE, Mr. LEWIS of Georgia, Ms. MARGOLIES-MEZVINSKY, Mr. MARKEY, Mr. MAZZOLI, Mr. McDERMOTT, Ms. MCKINNEY, Mr. NEEHAN, Mr. MILLER of California, Mr. OBERSTAR, Ms. PELOSI, Mr. RICHARDSON, Ms. SCHENK, Mrs. SCHROEDER, Mr. SERRANO, Mr. STARK, Mr. SYNAR, Mr. TORRES, Mr. TRAFICANT, Ms. WATERS, and Mr. WYDEN) introduced the following bill; which was referred to the Committee on Energy and Commerce

MARCH 18, 1994

Additional sponsors: Mr. ACKERMAN, Mr. EDWARDS of California, Mr. EVANS, Mr. FALEOMAVAEGA, Mr. FILNER, Mr. FROST, Mr. MATSUI, Mr. OWENS, Mr. YATES, Mr. CONYERS, Mr. JACOBS, Mr. JEFFERSON, Mr. NADLER, Mr. BECERRA, Mr. GENE GREEN of Texas, Mr. OLVER, Mr. SANDERS, Ms. VELÁZQUEZ, Mr. GOODLING, Mr. MORAN, Mr. RANGEL, Ms. ESHOO, Ms. EDDIE BERNICE JOHNSON of Texas, Mrs. MORELLA, Mr. ORTON, Mr. PENNY, Mr. ROMERO-BARCELÓ, Ms. SHEPHERD, and Ms. SLAUGHTER

A BILL

To amend the Public Health Service Act to protect the public from health hazards caused by exposure to environmental tobacco smoke, and for other purposes.

2046187496

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the "Smoke-Free Environ-
5 ment Act of 1993".

6 **SEC. 2. SMOKE-FREE ENVIRONMENT POLICY.**

7 The Public Health Service Act is amended by adding
8 the following new title at the end thereof:

9 "TITLE XXVII—SMOKE-FREE ENVIRONMENTS

10 "SEC. 2701. SMOKE-FREE ENVIRONMENT POLICY.

11 "(a) POLICY REQUIRED.—In order to protect chil-
12 dren and adults from cancer, respiratory disease, heart
13 disease, and other adverse health effects from breathing
14 environmental tobacco smoke, the responsible entity for
15 each public facility shall adopt and implement at such fa-
16 cility a smoke-free environment policy which meets the re-
17 quirements of subsection (b).

18 "(b) ELEMENTS OF POLICY.—Each smoke-free envi-
19 ronment policy for a public facility shall—

20 "(1) prohibit the smoking of cigarettes, cigars,
21 and pipes, and any other combustion of tobacco,
22 within the facility and on facility property within the
23 immediate vicinity of the entrance to the facility
24 and

1 “(2) post a clear and prominent notice of the
2 smoking prohibition in appropriate and visible loca-
3 tions at the public facility.

4 The policy may provide an exception to the prohibition
5 specified in paragraph (1) for one or more specially des-
6 ignated smoking areas within a public facility if such area
7 or areas meet the requirements of subsection (c).

8 “(c) SPECIALLY DESIGNATED SMOKING AREAS.—A
9 specially designated smoking area meets the requirements
10 of this subsection if:

11 “(1) The area is ventilated in accordance with
12 specifications promulgated by the Administrator that
13 insure that air from the area is directly exhausted
14 to the outside and does not recirculate or drift to
15 other areas within the public facility.

16 “(2) Nonsmoking individuals do not have to
17 enter the area for any purpose.

18 **“SEC. 2702. CITIZEN ACTIONS.**

19 “(a) IN GENERAL.—An action may be brought to en-
20 force the requirements of this title by any aggrieved per-
21 son, any State or local government agency, or the Admin-
22 istrator.

23 “(b) VENUE.—Any action to enforce this title may
24 be brought in any United States district court for the dis-
25 trict in which the defendant resides or is doing business

1 to enjoin any violation of this title or to impose a civil
2 penalty for any such violation in the amount of not more
3 than \$5,000 per day of violation. The district courts shall
4 have jurisdiction, without regard to the amount in con-
5 troversy or the citizenship of the parties, to enforce this
6 title and to impose civil penalties under this title.

7 “(c) NOTICE.—An aggrieved person shall give any al-
8 leged violator notice of at least 60 days prior to commenc-
9 ing an action under this section. No action may be com-
10 menced by an aggrieved person under this section if such
11 alleged violator complies with the requirements of this title
12 within such 60-day period and thereafter.

13 “(d) COSTS.—The court, in issuing any final order
14 in any action brought pursuant to this section, may award
15 costs of litigation (including reasonable attorney and ex-
16 pert witness fees) to any prevailing plaintiff, whenever the
17 court determines such award is appropriate.

18 “(e) PENALTIES.—The court in any action under this
19 section to apply civil penalties shall have discretion to
20 order that such civil penalties be used for projects which
21 further the policies of this title. The court shall obtain the
22 view of the Administrator in exercising such discretion and
23 selecting any such projects.

1 **"SEC. 2703. PREEMPTION.**

2 "Nothing in this title shall preempt or otherwise af-
3 fect any other Federal, State or local law which provides
4 protection from health hazards from environmental to-
5 bacco smoke.

6 **"SEC. 2704. REGULATIONS.**

7 "The Administrator is authorized to promulgate such
8 regulations as the Administrator deems necessary to carry
9 out this title.

10 **"SEC. 2705. EFFECTIVE DATE.**

11 "The requirements of this title shall take effect on
12 the date one year after the date of the enactment of the
13 Smoke-Free Environment Act of 1993.

14 **"SEC. 2706. DEFINITIONS.**

15 "As used in this title—

16 "(1) the term 'Administrator' means the Ad-
17 ministrator of the Environmental Protection Agency;

18 "(2) the term 'public facility' means any build-
19 ing regularly entered by 10 or more individuals at
20 least one day per week, including any such building
21 owned by or leased to a Federal, State, or local gov-
22 ernment entity. Such term shall not include any
23 building or portion thereof regularly used for resi-
24 dential purposes; and

25 "(3) the term 'responsible entity' means, with
26 respect to any public facility, the owner of such facil-

1 ity, except that in the case of any such facility or
2 portion thereof which is leased, such term means the
3 lessee.”.

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